



## Reconstruction of the legal framework for protecting the confidentiality of Children's statements in electronic proceedings based on Justice Principles

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### Abstract

This study examines the legal protection of the confidentiality of statements made by children in conflict with the law during electronic court proceedings. Although this protection is regulated under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (JCJS Law) and Law Number 27 of 2022 on Personal Data Protection (PDP Law), in practice, it does not yet fully guarantee the security and confidentiality of children's data in the digital era. Electronic trials utilizing information technology remain vulnerable to data breaches, misuse of recordings, and limited digital literacy among law enforcement officials.

This research adopts a qualitative approach using a non-doctrinal legal research method within a constructivist paradigm. Data were collected through in-depth interviews with judges, legal scholars, and child protection advocates, supported by literature reviews of relevant laws and court decisions. The analysis was carried out using inductive-deductive reasoning through qualitative data reduction, presentation, and conclusion drawing.

The findings reveal that the current legal protection system for children's testimony in electronic trials suffers from weaknesses in three core areas: legal substance, due to unresponsive regulatory frameworks; legal structure, owing to inadequate infrastructure and human resources; and legal culture, which lacks commitment to confidentiality principles and digital ethics. These three dimensions reinforce one another in shaping legal practices that fall short of fully safeguarding children.

As a solution, this study recommends reconstructing the legal system through regulatory reform, the establishment of child data protection units within the judiciary, and the strengthening of legal culture through digital literacy and the application of dignified justice values.

**Keywords:** Child Testimony, Legal Protection, Electronic Trials, Legal Reconstruction, Justice-Oriented Values

### Introduction

The Republic of Indonesia is a state governed by the rule of law. Consequently, every aspect of state administration and governance must be based on a comprehensive legal framework. This includes a constitutional foundation and a structured hierarchy of legal norms, ranging from the Constitution of the Republic of Indonesia to various forms of statutory regulations, such as Laws, Government Regulations, Presidential Regulations, Regional Regulation, and Village Regulations.

A state governed by law (*rechtstaat*) is characterized by the supremacy of law, the optimal enforcement of laws, the upholding of human rights, and the guarantee of equal legal standing for all citizens without exception. Therefore, effective law enforcement is a fundamental indicator of the success of a state governed by law.

In the conceptual framework of a legal state, the law is regarded as the supreme authority in the conduct of state affairs. Law forms the essential foundation for the establishment and functioning of a state, deeply intertwined with the adopted legal system. It serves as the highest source of norms (supremacy of law) governing legal relations between the state and its citizens, as well as among individuals within society. This includes the judicial decisions of judges, which must be grounded in legal principles, as Indonesia adheres to the principle of the rule of law.

Several legal theorists have defined the essential characteristics of a legal state. According to Sri Soemantri, there are at least four key elements: the recognition and

protection of human rights; the separation of powers; the obligation of the government to act in accordance with both written and unwritten legal norms; and an independent judiciary free from executive influence. Similarly, Padmo Wahjono asserts that a legal state is founded upon respect for human rights, a democratic institutional mechanism, a well-ordered legal system, and judicial independence.

As a consequence of Indonesia's status as a legal state, it is imperative to recognize and respect the equal legal status of every group within society. A legal state must also guarantee the protection and fulfillment of the human rights of all citizens, including children.

In general terms, a child is defined as a descendant or the offspring resulting from the union between a man and a woman, either within or outside of marriage. Children are considered a trust and a divine gift, bearing inherent dignity and status as full human beings. They represent the future generation and are vital for the continuity of national development. Thus, children occupy a strategic role in the nation's future.

In Indonesia, children's rights are explicitly protected under Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which guarantees every child the right to live, grow, and develop, as well as the right to protection from violence and discrimination. Therefore, the importance of children's lives must be understood as integral to the nation's well-being. The best interests of the child must be the primary consideration in all matters involving them. Accordingly, everyone has an obligation to protect

children from harm and prevent them from becoming victims of wrongdoing.

According to the Indonesian Child Protection Commission (KPAI), there were 4,124 reported child protection cases from January to November 2022. This number reflects a 30% decrease from 2021, which recorded 5,953 reports. The majority of these cases involved children as victims of sexual violence (746 cases), physical and/or psychological abuse (454 cases), and children in conflict with the law as offenders (187 cases).

The juvenile criminal justice system in Indonesia is a specialized mechanism for handling criminal cases involving children. Its primary objective is to protect the child and prevent recidivism. Within this system, the child is often viewed not as a perpetrator but as a victim of circumstance. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (JCJS Law) safeguards the rights of children in conflict with the law, including their right to identity protection, education, health care, and legal representation.

A child in conflict with the law is defined as someone between the ages of 12 and 18. If a child under the age of 12 is suspected of committing a criminal act, they must be returned to their parents or guardians or enrolled in a guidance and rehabilitation program for a maximum of six months.

The main distinction between the juvenile and adult criminal justice systems lies in their approach to justice. Juvenile justice prioritizes restorative justice over retributive or punitive measures. Case resolution involves collaboration between the offender, the victim, their families, and other relevant parties to seek a fair solution and avoid placing the child in adult correctional institutions.

Although this system generally guarantees children's rights, one critical area remains inadequately addressed—namely, the confidentiality of children's statements in electronic court proceedings. Article 19 of the JCJS Law stipulates that the identities of child victims and witnesses must be kept confidential in both print and electronic media. This includes the child's name, parents' names, address, photograph, and any other information that could reveal the child's identity. Any breach of this provision may result in a criminal penalty of up to five years of imprisonment and/or a fine of up to IDR 500 million.

Children's testimony, which serves as legal evidence, may be delivered in person or through information technology such as video conferencing. This is regulated under Supreme Court Regulation (PERMA) No. 4 of 2020 on the Administration and Trial of Criminal Cases in Courts Electronically and its amendment, PERMA No. 8 of 2022. While information technology facilitates the judicial process, it also introduces risks such as technical disruptions, data manipulation, or identity exposure.

In this context, the right to personal data protection becomes increasingly relevant. Law Number 27 of 2022 on Personal Data Protection defines personal data as information that can identify an individual, whether through electronic or non-electronic means. In juvenile court proceedings, information derived from a child's testimony—whether as a witness, victim, or offender—constitutes sensitive data that must be kept confidential. Article 3 letter h and Article 54 of the JCJS Law further mandate that juvenile trials must be conducted in closed sessions, except for the pronouncement of the verdict.

Therefore, it is imperative that the juvenile justice system includes robust regulations concerning the use of information technology. These rules must ensure that children's statements are delivered in a secure, confidential, and dignified manner. The complexity of digitalizing the legal system necessitates responsive regulatory reforms rooted in the intrinsic values of justice.

This paper aims to analyze the current legal protections for the confidentiality of children's testimony in electronic court proceedings and propose an ideal regulatory reconstruction within the juvenile criminal justice system grounded in justice-based values.

### Research Methodology

This study adopts a constructivist paradigm, which views law as a dynamic construct shaped by social interactions. This paradigm aligns with the core issue under investigation—namely, the legal protection of the confidentiality of children's statements within the electronic juvenile criminal justice system. Such protection is not solely determined by the normative text of statutory regulations, but also by legal practices, the perceptions of law enforcement officials, and the evolving dynamics of society and information technology.

The type of research employed is non-doctrinal (empirical) legal research using a qualitative approach. A non-doctrinal approach is appropriate given that the issue cannot be fully understood through textual analysis of legal norms alone; it also necessitates an exploration of how the law operates in reality (*das sein*). In this context, the legal protection of the confidentiality of children's statements must be examined not only through statutes such as the Juvenile Criminal Justice System Law (JCJS Law) and the Personal Data Protection Law (PDP Law), but also in terms of how these laws are implemented in courtrooms and perceived by actors within the juvenile justice system.

The qualitative method is employed to explore in-depth the experiences, perspectives, and practices of judges, prosecutors, legal counsel, and child protection officers with regard to maintaining the confidentiality of children's testimony during electronic hearings. The study also holistically investigates the systemic weaknesses across the legal substance, structure, and culture, which form the foundation for the urgency of legal reconstruction.

Primary and secondary data were utilized in this research. Primary data were obtained through in-depth interviews with respondents who possess expertise and experience in juvenile criminal justice, including juvenile court judges, child prosecutors, legal academics, child protection advocates, and cyber law experts. These interviews were conducted using open-ended questions to allow comprehensive exploration of respondents' views and lived experiences.

Secondary data were gathered through a literature review of statutory regulations, legal textbooks, academic journals, and relevant judicial decisions. Key legal instruments analyzed include Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 27 of 2022 on Personal Data Protection, as well as Supreme Court Regulation (PERMA) No. 4 of 2020 and PERMA No. 8 of 2022 concerning electronic administration and trial procedures in criminal cases.

Data collection techniques included semi-structured interviews and document analysis. Interviews were

conducted both in-person and online, depending on the availability of the respondents. Documentation was performed on both primary and secondary legal materials that support the proposed regulatory reconstruction.

Data analysis was conducted qualitatively through three stages: data reduction, data display, and conclusion drawing using an inductive-deductive reasoning process. Data reduction was used to identify and filter information relevant to the research focus; data display was organized into thematic narratives; and conclusion drawing was based on identifying patterns, correlations, and contradictions within the dataset.

To ensure data validity, this study employed source triangulation and member checking techniques. Triangulation was performed by cross-verifying data from multiple sources, including respondents, documents, and observations. Member checking was conducted by presenting the research findings to selected respondents for their feedback to confirm that the researcher's interpretations accurately reflected their perspectives.

This methodology was chosen due to its capacity to capture the complex and evolving reality of legal protection for children's testimony in digital judicial settings. The findings are expected to provide not only a normative legal analysis but also to serve as a foundation for the development of more equitable and responsive legal policies and regulations that uphold the rights of children in the digital age.

## Findings and Discussion

### 1. Legal Framework for the Protection of the Confidentiality of Children's Statements in Electronic Systems

The corpus of positive law in Indonesia has, in principle, laid a normative foundation for the protection of children, including the confidentiality of their identity and statements in the criminal justice process. However, in light of the rapid development of information technology and the implementation of electronic court proceedings, existing regulations fall short of fully safeguarding children's personal data—particularly the confidentiality of statements given by children as offenders, victims, or witnesses in juvenile criminal cases.

Article 19 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (JCJS Law) explicitly mandates that the identity of a child involved in legal proceedings must be kept confidential. This includes names, addresses, photographs, and any other information that may reveal the child's identity. However, implementing regulations—such as Supreme Court Regulation (PERMA) No. 4 of 2020 on the Administration and Trial of Criminal Cases via Electronic Means—do not specifically provide child-centered digital security protocols. This regulatory gap leaves open the potential for violations of legal protection.

Moreover, the use of technologies such as video conferencing, e-Berpadu (electronic integrated criminal justice system), and digital court systems—many of which lack critical features such as end-to-end encryption, access restrictions, and data dissemination controls—poses significant risks to the confidentiality of children's statements. The potential for data breaches, misuse of recorded sessions, and the unauthorized distribution of information beyond judicial boundaries is a clear and present danger.

In practice, many law enforcement officers and judicial personnel lack a comprehensive understanding of personal data protection principles within the context of electronic judicial proceedings. The prevailing legal culture often treats technology merely as a procedural tool, rather than as an ethical and substantive mechanism for upholding legal protection. This weakens the enforcement of confidentiality standards for children's testimony.

Consequently, there remains a pronounced discrepancy between the normative framework (*das sollen*) and its practical implementation (*das sein*). To ensure genuine protection of the confidentiality of children's statements in digital courtrooms, adjustments must be made on normative, technical, and cultural levels. This includes not only regulatory reform but also systemic improvements in technological safeguards and a paradigm shift in legal culture that views confidentiality as an integral part of justice for children in conflict with the law.

### 2. Weaknesses in the Legal Protection System: Substantive, Structural, and Cultural Aspects

An analysis of the legal protection system for the confidentiality of children's testimony in electronic court proceedings reveals critical deficiencies in three interrelated domains: legal substance, legal structure, and legal culture.

From a substantive standpoint, existing regulations do not provide detailed and explicit provisions governing the procedures for protecting children's data within electronic systems. There is an absence of specific technical rules prohibiting the recording of court proceedings, the publication of videos involving children, and the imposition of administrative sanctions for non-criminal violations of confidentiality safeguards. Current legal instruments remain general in nature and fail to address the specific challenges posed by the digital era.

In terms of legal structure, the primary weakness lies in the capacity and readiness of law enforcement and judicial institutions to manage electronic proceedings involving children. Many judges, prosecutors, legal counsels, and court clerks lack adequate training in digital data protection. Furthermore, not all judicial units are equipped with the necessary infrastructure to ensure the confidentiality of children's data, such as secure backup systems, firewalls, and certified data security protocols.

From the perspective of legal culture, there remains a significant gap in awareness and understanding—among both legal professionals and the general public—regarding the importance of maintaining the confidentiality of children's statements. Several documented cases reveal that court personnel and even journalists have, either intentionally or inadvertently, disclosed children's identities through social media platforms or online news channels. Low levels of digital literacy and a lack of ethical sensitivity toward child protection pose serious challenges in this regard.

These three dimensions—substance, structure, and culture—are deeply interconnected and mutually reinforcing. Weaknesses in legal substance, if not supported by strong institutional capacity and a robust legal culture, risk rendering legal protections mere formalities devoid of meaningful implementation. Therefore, the reconstruction of the legal protection system must begin with a comprehensive awareness of these systemic weaknesses and address them in an integrated and holistic manner.

### 3. Regulatory Reconstruction of Legal Protection Based on Justice-Oriented Values

The reconstruction of the legal protection system for safeguarding the confidentiality of children's statements in electronic court proceedings must be grounded in the principles of substantive, responsive, and dignified justice. The approach adopted in this reconstruction refers to John Rawls' theory of "justice as fairness" and the Indonesian legal scholar Teguh Prasetyo's concept of "dignified justice" (keadilan bermartabat).

The reconstruction must occur on three fundamental levels: substance, structure, and legal culture.

In terms of substantive law, there is a pressing need to amend or reform existing regulations to keep pace with the advancement of digital technologies. New provisions—whether through amendments to the Juvenile Criminal Justice System Law (JCJS Law) or Supreme Court Regulations (PERMA) on electronic proceedings—must include explicit prohibitions on the dissemination of data, mechanisms for digital anonymization, and procedures for examining children that prioritize digital confidentiality. Technical provisions must also be adopted to mandate non-recordable proceedings and systems that utilize end-to-end encryption and multi-factor authentication.

From a structural perspective, it is recommended that Child Data Protection Units be established within every District Court that adjudicates juvenile cases. These units would be responsible for ensuring that all digital equipment and systems used in court comply with information security and confidentiality standards. Furthermore, ongoing training for judges and court staff is essential, with a focus on digital literacy and child protection protocols in electronic environments.

On the level of legal culture, a transformation of values is required among both legal actors and the public. Awareness that children's personal data constitutes a fundamental human right must be fostered through public campaigns, socialization initiatives, and continuous legal education. The application of justice must not be limited to the final judgment but must begin from the moment a child's statement is recorded and documented.

This reconstruction also proposes cross-sectoral collaboration involving the Supreme Court of Indonesia, the Indonesian Child Protection Commission (KPAI), the Ministry of Communication and Informatics (Kominfo), and civil society to build a fair and sustainable digital child protection ecosystem.

Through such a comprehensive reconstruction, the legal protection framework for the confidentiality of children's statements in court will not only meet the demands of the digital age but also remain in accordance with the constitutional mandate and the universal principles of children's rights.

#### Conclusion

This study arises from a growing concern over the persistent weakness in the legal protection of the confidentiality of children's statements within the juvenile criminal justice system, which is increasingly conducted through electronic means. Although protection has been formally stipulated in Law Number 11 of 2012 on the Juvenile Criminal Justice System, particularly in Article 19, and further reinforced by Law Number 27 of 2022 on Personal Data Protection, in practice, significant shortcomings remain at the normative, structural, and cultural levels.

The findings of this research indicate that existing regulations are inadequate in addressing the complex challenges posed by the use of information technology in juvenile proceedings. Supreme Court Regulation (PERMA) No. 4 of 2020 and PERMA No. 8 of 2022, which provide the legal basis for electronic trials, do not specifically regulate mechanisms for the protection of children's data and statements. Risks such as identity disclosure, misuse of court recordings, and limited awareness of digital ethics present real threats to the principle of confidentiality.

Beyond the normative framework, the institutional structure of law enforcement also faces serious challenges. Many law enforcement officials lack sufficient technical and ethical knowledge in utilizing information technology in child-related cases. Furthermore, digital infrastructure across courts remains inconsistent and often fails to meet cybersecurity standards, thereby creating vulnerabilities in legal protection mechanisms.

From a legal culture standpoint, the awareness of the importance of protecting children's rights—particularly regarding the confidentiality of their statements—remains underdeveloped among both legal practitioners and the general public. The principle of open justice is often misinterpreted as a justification for disregarding the imperative to protect the child's vulnerability.

Based on this analysis, a reconstruction of the legal protection system for the confidentiality of children's statements in electronic court proceedings is deemed necessary. This reconstruction encompasses three key dimensions: legal substance, legal structure, and legal culture. On the substantive level, there is a need for more specific and progressive regulations that explicitly prohibit the recording of juvenile trials, mandate non-recordable systems, and guarantee encryption and restricted-access authentication protocols. On the structural level, the establishment of digital child data protection oversight units within courts is recommended, alongside ongoing training programs for judges and court personnel. At the level of legal culture, there is a need for public campaigns, digital literacy initiatives, and the internalization of child protection values grounded in dignified justice.

In conclusion, this research affirms that the current legal protection for the confidentiality of children in conflict with the law during electronic proceedings is not yet fully aligned with the values of justice. A comprehensive and responsive legal reconstruction is necessary—one that is child-rights-oriented, sustainable, and rooted in justice as a moral, legal, and policy foundation.

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